

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1086 of 1995

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

DIST.PANCHAYAT KHEDA

Versus

KANUBHAI BHAILALBHAI PATEL

Appearance:

MR BP MUSHI for Petitioner
MR RN SHAH for Respondent No. 1
MR KG SHETH for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 18/10/1999

ORAL JUDGEMENT

1. This is a revision under section 115 of CPC by the petitioner District Panchayat, Kheda, who was original defendant no.1 in the suit.
2. The first respondent as plaintiff had filed a suit in the trial court challenging a show-cause notice issued against him on 26th October 1994 by the District

Development Officer under section 57(1) of the Gujarat Panchayats Act, 1993 for the purpose of removing the plaintiff as Sarpanch from his office on account of various allegations made in the said show-cause notice. The first respondent herein as plaintiff has challenged the said show-cause notice on various grounds including merits and in the said suit sought an injunction under Order 39, Rule 1, CPC for staying the operation and implementation of the said notice. The trial court granted the injunction.

3. As against this, two appeals under Order 43, Rule 1 were preferred - one by the present petitioner (original defendant no.1) and the other by Shri Suresh Ranchhodhbhai Patel, who was not a party to the suit filed by the first respondent plaintiff.

4. Both the appeals were heard by the appellate court and dismissed. So far as the appeal by the present petitioner-first defendant was concerned, it was dismissed on merits, and so far as the appeal by Shri Suresh Ranchhodhbhai Patel was concerned, it was dismissed on the ground that he was not a party to the suit and therefore had no right of appeal.

5. The present revision at the instance of the District Panchayat, Kheda, the original defendant no.1, is by now academic. It is pertinent to note that the subject matter of the suit is the show-cause notice issued by the District Development Officer as against the first respondent plaintiff, dated 26th October 1994, for the purpose of removing the Sarpanch from the said post under section 57(1) of the Gujarat Panchayats Act, 1993. Learned counsel for the petitioner concedes that since, on the date of the notice viz. 26th October 1994, the Sarpanch was in office, the tenure of his office is bound to have expired by today. Thus, for all practical purposes, it would appear that the validity of the notice under section 57(1) of the said Act, for the removal of the Sarpanch from that office, has become academic.

6. This revision is, therefore, dismissed on this ground alone. Rule is discharged with no order as to costs.